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NOTE BY THE SECRETARY-GENERAL

The Secretary-General has the honour to transmit to the members of the Security Council the attached communication, dated 10 October 1995, which he has received from the Director General of the International Atomic Energy Agency (IAEA).

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Annex

Letter dated 10 October 1995 from the Director General of the International Atomic Energy Agency addressed to the Secretary-General

In my letter to you of 2 May 1995 (S/1995/353, annex), I asked you to bring that letter and the enclosed copy of my most recent written report on safeguards implementation in the Democratic People's Republic of Korea (DPRK) (GOV/2687/Add.10 of 6 March 1995) to the Agency's Board of Governors to the attention of the Security Council. I also undertook to report further developments to the Council as requested.

My letter of 2 May referred to verification measures being implemented at nuclear facilities in the DPRK whether or not covered by the freeze on the DPRK's graphite-moderated reactors and related facilities foreseen in the agreed framework between the DPRK and the United States of America. The report enclosed with my letter referred, inter alia, to the difference of view between the Agency and the DPRK about the current status of the DPRK's safeguards agreement. The DPRK views the acceptance of measures required by the Agency to monitor the freeze only in the context of the agreed framework and not as implementation of the safeguards agreement, which it considers inoperable at the present stage. The DPRK has indicated that it will allow full implementation of the safeguards agreement when a significant portion of the light water reactor project foreseen in the agreed framework is completed.

My letter of 2 May referred also to issues to be addressed at further technical talks between DPRK representatives and an Agency technical team. The issues relate to the taking of certain measurements of fuel rods in storage at the DPRK's 5 MW(e) experimental nuclear reactor and to the monitoring of nuclear-waste tanks at the reprocessing plant in the DPRK to verify that there is no movement or any operation there involving those wastes. The technical talks were initially scheduled to take place in the spring but were postponed by the DPRK, apparently because of the impasse that existed for some time in its discussions with the United States about the light water reactor project. I reported this to the Agency's Board of Governors in June. In my statement to the Board in September, I was able to report that, following the successful conclusion of more bilateral talks between the DPRK and the United States, the DPRK had indicated its readiness to continue the discussions foreseen with an Agency technical team.

By the time of the Agency's thirty-ninth regular session, which opened on 18 September 1995, and to which I had submitted a written report (GC(39)/18 of 17 August 1995 (appendix II)), I was able to confirm that a further round of technical discussions between the DPRK and an Agency technical team had by then taken place. Limited progress had been made over some issues. On 22 September, the General Conference adopted resolution GC(39)/RES/3 (appendix I). By that resolution, the General Conference, inter alia, endorsed the actions and commended the efforts taken by the Secretariat to implement the safeguards agreement and to monitor the freeze in the DPRK, expressed concern over the

continuing non-compliance of the DPRK with its safeguards agreement and urged it to cooperate fully with the Agency in the implementation of that agreement.

At the post-General Conference meeting of the Board of Governors on 25 September, I reported in some detail on the talks held in the DPRK from 12 to 18 September. I explained to the Board that, although the DPRK had agreed to Agency measurements of irradiated fuel rods in storage at the 5 MW(e) experimental reactor, which would verify whether the rods were all irradiated fuel, it had not agreed to measures that would give information about the total amount of plutonium in the spent fuel. This information will have to be obtained through measurements, with some limitations in accuracy, at a much later date (i.e. more than five years hence), and could require opening of the storage containers at significant additional cost. You may recall that the Agency had envisaged taking the required measurements, during the transfer of the spent fuel into containers for storage.

I reported also to the Board that no agreement had been reached about the installation of additional Agency monitoring equipment at nuclear waste tanks in the DPRK's reprocessing plant, to enable the Agency to verify, on a continuous basis, that there is no movement or any operation involving those wastes. This issue remains to be resolved. However, some implementation measures that had been agreed in January with the DPRK but had not been applied because of objections by the operator (e.g. photographing of the new process line of the reprocessing plant by inspectors) will now be implemented as soon as possible. Finally, a detailed technical paper on the preservation of information by DPRK given to DPRK representatives at the beginning of the talks was not discussed; the DPRK indicated its intention to study the paper and to discuss it with Agency representatives at a future meeting. This paper describes the information that the DPRK needs to preserve and which the Agency needs as relevant to the verification of the DPRK's initial report.

I should be grateful if you would bring the present letter and its enclosures to the attention of the Security Council, to which I shall continue to report further developments.

(Signed) Hans BLIX

Appendix I

IMPLEMENTATION OF THE AGREEMENT BETWEEN THE AGENCY AND THE DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA FOR THE APPLICATION OF SAFEGUARDS IN CONNECTION WITH THE TREATY ON THE NON-PROLIFERATION OF NUCLEAR WEAPONS

Resolution GC(39)/RES/3 adopted on 22 September 1995 during the ninth plenary meeting

IMPLEMENTATION OF THE AGREEMENT BETWEEN THE AGENCY AND THE DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA FOR THE APPLICATION OF SAFEGUARDS IN CONNECTION WITH THE TREATY ON THE NON-PROLIFERATION OF NUCLEAR WEAPONS

The General Conference,

(a) Recalling the Board of Governors' resolutions GOV/2436 of 25 February 1993, GOV/2639 of 18 March 1993, GOV/2645 of 1 April 1993, GOV/2692 of 23 September 1993, GOV/2711 of 21 March 1994 and GOV/2742 of 10 June 1994 and General Conference resolutions GC(XXXVII)/RES/624 of 1 October 1993 and GC(XXXVIII)/RES/16 of 23 September 1994,

(b) Noting the Director General's report contained in document GC(39)/18,

(c) Recalling further resolution 825 (1993) adopted by the Security Council of the United Nations on 11 May 1993 and the 31 March 1994, 30 May 1994 and 4 November 1994 statements by the President of the United Nations Security Council, particularly the request to take all steps the Agency may deem necessary to verify full compliance by the Democratic People's Republic of Korea (DPRK) with its safeguards agreement with the Agency,

(d) Noting that the DPRK has decided to remain a party to the Treaty on the Non-Proliferation of Nuclear Weapons and reaffirming that the IAEA-DPRK safeguards agreement (INFCIRC/403) under the Treaty remains binding and in force,

(e) Noting also the stated intention of the DPRK to come into full compliance with the safeguards agreement and the continuing IAEA-DPRK discussions on outstanding safeguards issues, and

(f) Regretting the withdrawal of the DPRK from the Agency and expressing the hope that the DPRK will rejoin,

1. Strongly endorses the actions taken by the Board of Governors and commends the Director General and the Secretariat for their impartial efforts to implement the IAEA-DPRK safeguards agreement;

2. Commends the Secretariat for its efforts to monitor the freeze of specified facilities in the DPRK as requested by the United Nations Security Council;

3. Expresses concern over the continuing non-compliance of the DPRK with the safeguards agreement and calls upon the DPRK to comply fully with the IAEA-DPRK safeguards agreement;

4. Urges the DPRK to co-operate fully with the Agency in the implementation of the safeguards agreement and to take all steps the Agency may deem necessary to preserve, intact, all information relevant to verifying the accuracy and completeness of the DPRK's initial report on the inventory of nuclear material subject to safeguards until the DPRK comes into full compliance with its safeguards agreement; and

5. Decides to include in the agenda for its fortieth regular session an item entitled "Implementation of the agreement between the Agency and the Democratic People's Republic of Korea for the application of safeguards in connection with the Treaty on the Non-Proliferation of Nuclear Weapons".

Appendix II

IMPLEMENTATION OF THE AGREEMENT BETWEEN THE AGENCY AND THE DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA FOR THE APPLICATION OF SAFEGUARDS IN CONNECTION WITH THE TREATY ON THE NON-PROLIFERATION OF NUCLEAR WEAPONS (INFCIRC/403)

Report by the Director General to the General Conference (GC(39)/18)

1. In resolution GC(XXXVIII)/RES/16 of 23 September 1994, the General Conference, inter alia, decided:

> "to include in the agenda for its thirty-ninth regular session an item entitled "Implementation of the agreement between the Agency and the Democratic People's Republic of Korea for the Application of Safeguards in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons".

This report is designed to provide information to the General Conference in its consideration of this item of its agenda.

THE SITUATION PREVAILING WITH REGARD TO SAFEGUARDS IMPLEMENTATION IN THE DPRK AT THE TIME OF THE THIRTY-EIGHTH REGULAR SESSION OF THE GENERAL CONFERENCE

2. The Director General's report to the General Conference in 1994 in document GC(XXXVIII)/19 recalled the overall developments which had taken place in safeguards implementation in the DPRK pursuant to the DPRK's Safeguards Agreement with the Agency (INFCIRC/403), both with regard to inconsistencies between the DPRK's initial report on its nuclear material subject to safeguards and the Secretariat's findings and to the DPRK's declared nuclear activities. The report focussed in particular on developments throughout

the course of 1994 up until the time of the General Conference. These included problems over inspection activities at declared nuclear facilities in the DPRK despite the DPRK's acceptance, on 15 February 1994, of a detailed list of such activities for providing continuity of safeguards knowledge and later, the discharge of fuel from the DPRK's 5 MWe Experimental Nuclear Power Plant, without the safeguards measures requested by the Agency and in a way which seriously eroded the Agency's ability to take further measures crucial to its ability to ascertain whether all the plutonium produced in the DPRK had been declared to the Agency. These developments also included the continuous inspector presence in the Nyongbyon area beginning in May. The report also covered developments following the DPRK's withdrawal from the Agency membership with effect from 13 June 1994, notably, the DPRK's initially declared unwillingness to accept further Agency inspection activities and the later modification of its position in this regard. The Director General's report to the General Conference in 1994 concluded with an account of some positive developments which had taken place early in September 1994, namely, oral and practical indication that the DPRK was ready to enlarge the scope of inspections, as requested by the Agency, at declared nuclear facilities in the DPRK. The report also recalled that, at the meetings of the Board of Governors which had taken place on 12 September 1994, the Director General and the Secretariat were commended on their efforts to discharge their safeguards responsibilities in the DPRK and were requested to continue with those efforts.

DEVELOPMENTS OVER SAFEGUARDS IMPLEMENTATION IN THE DPRK SINCE THE THIRTY-EIGHTH REGULAR SESSION OF THE GENERAL CONFERENCE

3. Following progress made during bilateral consultations between DPRK and United States representatives, the DPRK accepted enlarging the scope of inspections in early September 1994. The Agency inspectors were given access to the Nuclear Fuel Rod Fabrication Plant and the Nuclear Fuel Rod Storage facility for periodic inspections, as required by the Agency. The inspectors were also enabled, in addition to the other activities being carried out at the 5 MWe Reactor, to enter the reactor fuel storage to verify the fresh fuel rod inventory. However, at the Radiochemical Laboratory, the DPRK continued to refuse to allow *the* Agency inspectors to ascertain the state of completion of the new process line under construction there and declined examination of records and gamma-mapping activities.

4. Further, bilateral talks between the DPRK and the United States in the autumn of 1994 culminated in an 'Agreed Framework', (reproduced in INFCIRC/457) signed in Geneva on 21 October 1994. This envisages specific functions for the Agency, notably to monitor a "freeze on the DPRK's graphite-moderated reactors and related facilities", to continue with verification activities at facilities not covered by the freeze and to take measures required

with a view to verifying, at a later date, the accuracy and completeness of the DPRK's initial report on all nuclear material in the DPRK. The Director General briefed Members of the Agency informally on 25 October 1994 about the potential implications for the Agency of the Agreed Framework, inter alia, emphasizing that such a bilateral instrument could not replace, supersede or detract from the Safeguards Agreement between the IAEA and the DPRK. The Director General similarly briefed Members of the Security Council on 28 October 1994. The Security Council considered the Agreed Framework and on 4 November, the President of the Security Council issued a Statement (S/PRST/1994/64). Extracts from the Statement of direct relevance to the Agency are attached at attachment I. Key points are that through the Statement, the Security Council, inter alia:

- Took note of the decision of the DPRK in the "Agreed Framework" to remain a party to the Treaty on the Non-Proliferation of Nuclear Weapons and to come into full compliance with the IAEA-DPRK Safeguards Agreement (INFCIRC/403) under the Treaty;

- underlined that the Safeguards Agreement remains binding and in force and looked to the DPRK to act thereon;

- noted with approval the DPRK's decision in the Agreed Framework to freeze its graphite-moderated reactors and related facilities;

- noted that IAEA monitoring activities with respect to such a voluntary measure are within the scope of verification activities under the IAEA-DRPK Safeguards Agreement;

- requested the IAEA to take all steps it may deem necessary as a consequence of the Agreed Framework to monitor the freeze and,

- requested the IAEA to continue to report to it on the implementation of the Safeguards Agreement until the DPRK has come into full compliance with the Agreement and to report to the Council on its activities related to monitoring the freeze of the specified facilities.

5 At a special meeting of the Board of Governors convened for 11 November 1994, the Director General, in his written report (GOV/2687/Add.9 of 8 November 1994) and in his oral Statement, described the Agency's understanding of the freeze to which the Agreed Framework and the Statement by the President of the Security Council had referred i e. that there will be no operations at the facilities covered by the freeze and no construction work

of any kind, either at existing facilities or new, related facilities, that the spent fuel from the 5 MWe reactor will be stored and disposed of in a manner that does not involve reprocessing in the DPRK; and that any movements of nuclear material or equipment within those facilities, any necessary maintenance work by the operator and any transfers of nuclear material out of the facilities would have to be carried out under the observation of Agency inspectors or under other Agency arrangements. The Director General also recalled that monitoring of a freeze, as requested by the Security Council and as understood above can be performed by the Agency in the course of implementing safeguards in the DPRK; the activities required are part of activities which the Agency may perform while implementing safeguards agreements. The main additional element in the DPRK case would be the specific reporting to the Security Council on the monitoring of the freeze.

6. The Director General's written report in GOV/2687/Add.9 to the November 1994 Board meeting, inter alia, listed the declared nuclear facilities in the DPRK to be covered by the freeze (see attachment II), explained that other facilities and installations included in the DPRK's declarations but which are not covered by the freeze will also be subject to safeguards, said that the Agency's current assessment of the resources required for safeguards implementation in the DPRK, including monitoring the freeze, would not much exceed the resources now being spent and highlighted the practical meaning of the Agency verifying "full DPRK compliance with the IAEA-DPRK Safeguards Agreement" to which the Statement of 4 November 1994 by the President of the Security Council had referred.

7. The Director General explained that "full compliance" clearly encompasses the verification of the accuracy and completeness of the DPRK's Initial Report on the inventory of nuclear material subject to safeguards and requires the DPRK to take all the steps in this regard that the Agency may deem necessary to preserve, intact, all information relevant to such verification, following technical discussions between the IAEA and DPRK. The commitment by the DPRK in the Agreed Framework foresees a delay before the Agency is enabled to verify the accuracy and completeness of the initial report and to verify full DPRK compliance with the IAEA/DPRK Safeguards Agreement. However, the Director General has stressed both to Members of the Agency and to the Security Council, that it would be better for all concerned if cooperation in this respect from the DPRK were to come promptly, as required by the Safeguards Agreement. The Agency's ability to verify full compliance with the IAEA/DPRK Safeguards Agreement will depend substantially on the extent to which all relevant information will remain available

8. At its meeting on 11 November 1994, the Board of Governors, inter alia, took note of the Agreed Framework and of the DPRK's decision therein to remain a party to the NPT and to come into full compliance with the IAEA/DPRK safeguards agreement. The Board also reaffirmed that the safeguards agreement remained binding and in force; authorized the Director General to carry out all the tasks requested of the Agency as outlined in the Presidential Statement of the United Nations Security Council on 4 November 1994; and requested the Director General to report to it periodically and to the Security Council as appropriate on the implementation of the IAEA/DPRK safeguards agreement and on Agency activities related to monitoring the freeze on specified facilities in the DPRK. Subsequently, a technical team from the Department of Safeguards, visited the DPRK from 23-28 November 1994 to discuss the verification measures which the IAEA has to perform at nuclear facilities in the DPRK whether or not those facilities are covered by the freeze. During this visit, the IAEA technical team visited all the nuclear facilities subject to the freeze in Nyongbyon and the reactor under construction in Taechon and confirmed that they were not in operation and that construction work had stopped. In his statement to the Board on 8 December 1994, the Director General recalled that these technical discussions between Agency and DPRK representatives had been useful and constructive and that implementation of some of the measures required was already under way. He also said that arrangements had been made to enable the Agency to meet most of its objectives, although a few remaining areas required further technical consideration and discussion with DPRK representatives

9. To take all these matters forward, the Agency technical team again visited the DPRK in January of this year. Discussions with DPRK representatives focussed on the implementation of the verification measures already agreed and technical issues which had been left open since November 1994. In the former context, the DPRK accepted some verification activities, such as containment and surveillance measures, which the Agency needs to carry out to verify the freeze, but declined other measures, relevant to the monitoring of the freeze, such as the taking of measurements of liquid wastes at the Radiochemical Laboratory *to* verify that there is no movement or any operation involving there wastes and measurements for assessing the total amount of plutonium in spent fuel rods from the DPRK's 5 MWe Experimental Nuclear Power Plant. The spent fuel measurements should be taken during the transfer of the spent fuel into containers for storage. These measurements would also verify whether all the rods in the spent fuel storage are indeed spent fuel rods. The DPRK regards such issues as matters to be addressed later, when the DPRK comes into full compliance with its safeguards agreement. In that respect, a difference continues between the Agency and the DPRK as to the current status of the safeguards agreement. The DPRK regards acceptance of measures required to enable the

Agency to monitor the freeze as not being under the safeguards agreement but as falling solely within the context of the 'Agreed Framework'. DPRK has further indicated that, until such time as it comes into full compliance with its safeguards agreement, the Agency can carry out ad hoc and routine inspections only at facilities not covered by the freeze.

10. Notwithstanding the continuing difference of view between the Agency and the DPRK as to the current status of the Safeguards Agreement, the Director General was able to report in his statement to the Board in March 1995 that verification measures in the DPRK were proceeding at facilities covered by the freeze in the way envisaged by the Agency with the exception of the taking of certain measurements. The taking of these measurements was an important issue for further discussion, expected to take place in the Spring. Safeguards implementation had also been facilitated for the Agency through the DPRK's acceptance of 10 additional inspector designations and continuous presence of Agency inspectors at Nyongbyon. The Director General also observed that another important issue, the steps which the DPRK needed to take to meet its undertaking to preserve, intact, all information relevant to the verification of the accuracy and completeness of its initial declaration, had yet to be discussed between Agency and DPRK representatives.

11. At the conclusion of its consideration of the DPRK item on its agenda in March 1995, the Board, having taken note of the Director General's remarks, welcomed the fact that further technical discussions between Agency and DPRK representatives had been scheduled for the Spring and hoped that further agreement would be reached on the issues outstanding.

12. Unfortunately, the technical discussions scheduled for the Spring did not take place. On 11 April 1995 the Agency invited a DPRK team to Vienna to continue technical discussions. In response, the DPRK informed the Agency, on 20 April 1995, that the Agency technical team should visit Pyongyang early in May. On 2 May, however, the DPRK informed the Agency that the DPRK continues to regard the activities of the IAEA in their country as directly related to the implementation of the "Agreed Framework". In the DPRK's view therefore, at a time when negotiations between the US and DPRK over aspects of that bilateral agreement related to the light water reactor issue, were at stalemate, there was little point in holding further technical discussions with the Agency. The DPRK was nevertheless aware that the Agency was ready to resume technical discussions at any time.

13. The Director General reported this in his statement to the June 1995 meetings of the Board of Governors; and informed the Board about the inspections which had taken place, since the March 1995 Board meeting, at three of the DPRK's declared nuclear facilities not covered by the freeze. As for facilities covered by the freeze, the Director General reported

that DPRK had conducted maintenance work at the 5 MWe Experimental Power Plant, and had indicated that they planned to carry out such work also at the Radiochemical Laboratory. The Director General concluded his statement to the Board by saying that such maintenance work as had so far been carried out had taken place in the presence of IAEA inspectors.

14. At the conclusion of its consideration of the DPRK the Board took note of the information provided by the Director General, said it would like to see further technical talks between the Agency and the DPRK taking place soon and wished to see agreement reached on the issues outstanding.

15. Since then the Agency has maintained its continuous inspection presence in the Nyongbyon area. After the conclusion of the recent round of bilateral US/DPRK discussions on the light water reactor issue, the DPRK indicated its readiness to continue discussions with the IAEA technical team. The technical discussions are planned during the week starting 11 September 1995 in DPRK. The topics suggested by the IAEA for discussion during the forthcoming meeting include all the outstanding issues of measurements and other implementation matters as well as the Agency's requirements with regard to the information deemed necessary by the Agency to be preserved intact by DPRK, so as to permit in the future the verification of the accuracy and completeness of the DPRK's initial declaration.

Attachment I

EXTRACTS FROM STATEMENT (S/PRST/1994/64) ISSUED BY THE PRESIDENT OF THE SECURITY COUNCIL ON 4 NOVEMBER 1994, OF DIRECT RELEVANCE TO THE INTERNATIONAL ATOMIC ENERGY AGENCY

(a) The Security Council reaffirmed the critical importance of International Atomic Energy Agency (IAEA) safeguards in the implementation of the Treaty on the Non-Proliferation of Nuclear Weapons (the Treaty) and the contribution which progress in non-proliferation makes to the maintenance of international peace and security.

(b) The Security Council noted with satisfaction the "Agreed Framework between the United States of America and the Democratic People's Republic of Korea (DPRK)" (Agreed Framework) of 21 October 1994 as a positive step in the direction of denuclearizing the Korean Peninsula and maintaining peace and security in the region.

(c) The Security Council took note of the decision of the DPRK in the Agreed Framework to remain a party to the Treaty on the Non-Proliferation of Nuclear Weapons. It noted also the DPRK's decision to come into full compliance with the IAEA-DPRK Safeguards Agreement (INFCIRC/403) under the Treaty.

(d) The Council underlined that the Safeguards Agreement remains binding and in force and looked to the DPRK to act thereon. The Council requested the IAEA to take all steps it may deem necessary, following consultations between the IAEA and DPRK with regard to verifying the accuracy and completeness of the DPRK's initial report on all nuclear material in the DPRK, to verify full DPRK compliance with the IAEA-DPRK Safeguards Agreement.

(e) The Security Council noted with approval the DPRK decision in the Agreed Framework to freeze its graphite-moderated reactors and related facilities, which is a voluntary measure beyond what is required by the Treaty and the IAEA-DPRK Safeguards Agreement.

(f) The Security Council, having received an oral report from the Director General of the IAEA, noted further that IAEA monitoring activities with respect to such a voluntary measure are within the scope of verification activities under the IAEA-DPRK Safeguards Agreement.

(g) The Security Council requested the IAEA to take all steps it may deem necessary as a consequence of the Agreed Framework to monitor the freeze.

(h) The Security Council also requested the IAEA to continue to report to it on implementation of the Safeguards Agreement until the DPRK has come into full compliance with that Agreement and to report to the Council on its activities related to monitoring the freeze of the specified facilities.

Attachment II

EXTRACTS FROM INFCIRC/457

(TEXT OF THE "AGREED FRAMEWORK" BETWEEN THE US AND THE DPRK SIGNED IN GENEVA ON 21 OCTOBER 1994)

The Facilities in the DPRK covered by the freeze:

1. The Nyongbyon 5 MWe Experimental Nuclear Power Plant.

2. The Nyongbyon Nuclear Fuel Rod Fabrication Plant

3. The Radiochemical Laboratory of the Institute of Radiochemistry of Nyongbyon.

4. The Nyongbyon 50 MWe Nuclear Power Plant (under construction).

5. The Taechon 200 MWe Nuclear Power Plant (under construction).